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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/016,468	12/10/2001	Kenneth J. Greves	GREV / 03	7173
26875	7590	05/06/2004	EXAMINER	
WOOD, HERRON & EVANS, LLP			ALLEN, DENISE S	
2700 CAREW TOWER			ART UNIT	
441 VINE STREET			PAPER NUMBER	
CINCINNATI, OH 45202			2872	

DATE MAILED: 05/06/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/016,468	Applicant(s) GREVES, KENNETH J.	
	Examiner Denise S Allen	Art Unit 2872	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 February 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3-22 and 24-61 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3-22 and 24-61 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10 December 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

Applicant's arguments with respect to claims 1 and 42 have been considered but are moot in view of the new ground(s) of rejection.

Claim Objections

Claims 54 – 57 and 59 are objected to because of the following informalities:

The limitation “said reflective material” (claims 54 and 55) lacks antecedent basis because it has not been previously recited. Suggested correction: make claims 54 and 55 dependent on claim 53 instead of claim 42.

The limitation “said recessed area” (claims 56, 57, and 59) lacks antecedent basis because it has not been previously recited. Suggested correction: make claims 56, 57, and 59 dependent on claim 55 instead of claim 42.

Appropriate correction is required.

Allowable Subject Matter

The indicated allowability of claims 14 – 22 and 24 – 41 is withdrawn in view of the newly discovered reference(s) to Murray, Jr. (US 5,777,810 and US 3,335,693), Arbuckle et al (US 2,004,181), Harrison (US 2,389,234), and Taglieri (US 5,677,790). Rejections based on the newly cited reference(s) follow.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person

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having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 3 – 13, 17, 19, 20, 22, 24 – 33, 38, 40 – 54, 58, 60, and 61 are rejected under 35 U.S.C. 103(a) as being unpatentable over Murray, Jr. (US 5,777,810).

Regarding claims 1, 3, 4, 22, 24, 25, and 42 – 45, Murray, Jr. (US 5,777,810) teaches an apparatus comprising a structure (reference 10) having first and second opposite ends (left and right ends in Figure 1), first and second opposite sides (references 12 and 14) and being adapted to be small in size (column 1 lines 17 – 21), wherein said first and second sides are reflective (column 5 lines 26 – 28 and column 7 lines 45 – 48), said structure being inherently adapted to reflect light no matter which side or which end is protruding (since both sides are covered entirely by mirrors). Murray, Jr. (US 5,777,810) does not teach the structure is adapted to be inserted into a pocket of clothing worn by a user.

It would have been obvious to one of ordinary skill in the art at the time of the invention to adapt the structure of Murray, Jr. (US 5,777,810) to be inserted into a pocket of clothing (including shirts and pants) worn by a user in order to enable the user to easily carry the structure.

Regarding claims 5, 9, 26, 31, 46, and 50, Murray, Jr. (US 5,777,810) discloses the claimed invention as described above except for the structure being adapted to protrude out of the pocket when seated in the pocket of the user. It would have been obvious to one of ordinary skill in the art at the time the invention was made to adapt the structure to protrude out of the pocket when seated in the pocket of the user, since such a modification would involve only a mere change in size of a component. Scaling up or down of an element which merely requires a change in size is generally considered as being within the ordinary skill in the art. One would

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have been motivated to scale the size of the structure so that it protrudes out of the pocket when seated in the pocket of the user in order to facilitate the user remembering that the structure is in the pocket by being able to see the structure protruding from the pocket.

Regarding claims 6, 29, and 47, Murray, Jr. (US 5,777,810) teaches the structure is substantially oblong (Figure 1).

Regarding claims 7 and 48, Murray, Jr. (US 5,777,810) teaches the structure is substantially planar (Figure 3).

Regarding claims 8, 30, and 49, Murray, Jr. (US 5,777,810) teaches the structure is substantially rectangular (Figure 1).

Regarding claims 10, 32, and 51, Murray, Jr. (US 5,777,810) teaches the structure is 0.25 inches thick (column 7 lines 42 – 44).

Regarding claims 11, 27, and 52, Murray, Jr. (US 5,777,810) teaches the structure is manufactured from reflective material (column 5 lines 26 – 28 and column 7 lines 45 – 48).

Regarding claims 12, 33, and 53, Murray, Jr. (US 5,777,810) teaches the reflective material is attached to said sides (column 5 lines 26 – 28 and column 7 lines 45 – 48).

Regarding claims 13 and 54, Murray, Jr. (US 5,777,810) teaches the reflective material is reflective tape (column 7 lines 45 – 48).

Regarding claims 17, 38, and 58, Murray, Jr. (US 5,777,810) teaches the structure includes at least one aperture (reference 20).

Regarding claims 19, 20, 40, 41, 60 and 61, Murray, Jr. (US 5,777,810) teaches the structure includes radiused corners (Figure 1).

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Regarding claim 28, Murray, Jr. (US 5,777,810) teaches the structure is manufactured from flexible material (column 5 lines 17 – 20).

Claims 14, 15, 34, 35, 37, 55, and 56 are rejected under 35 U.S.C. 103(a) as being unpatentable over Murray, Jr. (US 5,777,810) in view of Murray, Jr. (US 3,335,693).

Regarding claims 14, 34, 37, and 55, Murray, Jr. (US 5,777,810) teaches the apparatus as described above. Murray, Jr. (US 5,777,810) does not teach the structure includes at least one recessed area in said sides to accommodate said reflective material.

Murray, Jr. (US 3,335,693) teaches an apparatus with at least one recessed area (created by reference 7 as shown in Figure 5) in a side to accommodate a reflective material (references 1 – 3). It would have been obvious to one of ordinary skill in the art at the time of the invention to use the recessed area of Murray, Jr. (US 3,335,693) in the apparatus of Murray, Jr. (US 5,777,810) in order to protect the edges of the reflective material.

Regarding claims 15, 35, and 56, Murray, Jr. (US 5,777,810 and US 3,335,693) discloses the claimed invention except for the dimensions of the recessed area. It would have been obvious to one of ordinary skill in the art at the time the invention was made to size the recessed area to cover the side of the structure, since such a modification would involve only a mere change in size of a component. Scaling up or down of an element which merely requires a change in size is generally considered as being within the ordinary skill in the art. One would have been motivated to scale the size of the recessed area to be 3.6 inches by 2.1 inches by 0.2 inches in order to maximize the reflective area.

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Claims 16, 36, and 57 are rejected under 35 U.S.C. 103(a) as being unpatentable over Murray, Jr. (US 5,777,810) in view of Murray, Jr. (US 3,335,693) and further in view of Arbuckle et al.

Murray, Jr. (US 5,777,810 and US 3,335,693) teaches an apparatus as described above. Murray, Jr. does not teach the structure includes three recessed areas in each of the sides.

Arbuckle et al teaches a structure with four recessed areas for reflective material in a side. It would have been obvious to one of ordinary skill in the art at the time of the invention to use the multiple recessed areas of Arbuckle et al in the apparatus of Murray, Jr. (US 5,777,810 and US 3,335,693) in order to display user identification information.

Claims 18, 39, and 59 are rejected under 35 U.S.C. 103(a) as being unpatentable over Murray, Jr. (US 5,777,810) in view of Murray, Jr. (US 3,335,693) and Arbuckle et al and further in view of Harrison.

Murray, Jr. (US 5,777,810 and US 3,335,693) in view of Arbuckle et al teaches an apparatus as described above. Murray, Jr. and Arbuckle et al do not teach the structure includes a pair of apertures between adjacent recessed areas.

Harrison teaches a structure (Figure 10) with multiple reflective areas (i.e. references 27 and 28) with pairs of apertures (reference 29) between adjacent reflective areas (i.e. there are a pair of reference 29 between references 27 and 28). It would have been obvious to one of ordinary skill in the art at the time of the invention to use the placement of pairs of apertures of Harrison in the apparatus of Murray, Jr. (US 5,777,810 and US 3,335,693) in view of Arbuckle et al in order to provide multiple attachment points for the apparatus.

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Claim 21 is rejected under 35 U.S.C. 103(a) as being unpatentable over Murray, Jr. (US 5,777,810 and US 3,335,693) in view of Arbuckle et al and Harrison and further in view of Taglieri.

Murray Jr. in view of Arbuckle et al and Harrison teaches an apparatus as described above. Murray, Jr., Arbuckle et al, and Harrison do not teach the structure is adapted to removably attach to clothing.

Taglieri teaches a structure that is adapted to removably attach to clothing (Figures 9A, 9B, 10A, and 10B). It would have been obvious to one of ordinary skill in the art at the time of the invention to use the adaptation to removably attach to clothing of Taglieri in the apparatus of Murray, Jr. in view of Arbuckle et al and Harrison in order to allow the apparatus to be used with multiple different pieces of clothing.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Denise S Allen whose telephone number is (571) 272-2305. The examiner can normally be reached on Monday - Friday, 9:00am - 5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Drew A Dunn can be reached on (571) 272-2312. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

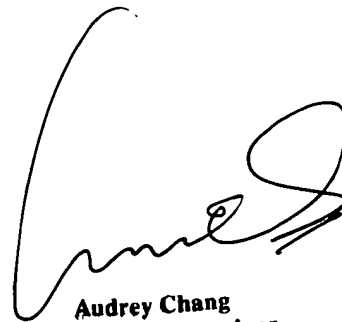
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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Denise S Allen
Examiner
Art Unit 2872



dsa



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